

## § 21.4235

## 38 CFR Ch. I (7–1–12 Edition)

CROSS REFERENCE: *Counseling*. See § 21.4100.

(The Office of Management and Budget has approved the information collection provisions in this section under control numbers 2900–0074 and 2900–0099)

[31 FR 6774, May 6, 1966, as amended at 34 FR 845, Jan. 18, 1969; 39 FR 34036, Sept. 23, 1974; 39 FR 45237, Dec. 31, 1974; 45 FR 67093, Oct. 9, 1980; 57 FR 29027, June 30, 1992; 57 FR 40614, Sept. 4, 1992; 60 FR 32272, June 21, 1995; 61 FR 6783, Feb. 22, 1996; 72 FR 16973, Apr. 5, 2007; 74 FR 14669, Mar. 31, 2009]

### § 21.4235 Programs of education that include flight training.

VA will use the provisions of this section to determine whether an individual may be paid educational assistance for pursuit of flight training. See § 21.4263 for approval of flight courses for VA training.

(a) *Eligibility.* A veteran or service-member who is otherwise eligible to receive educational assistance under 38 U.S.C. chapter 30 or 32, or a reservist who is eligible for expanded benefits under 10 U.S.C. chapter 1606 as provided in § 21.7540(b), may receive educational assistance for flight training in an approved course provided that the individual meets the requirements of this paragraph. Except when enrolled in a ground instructor certification course or when pursuing flight training under paragraph (f) of this section, the individual must—

(1) Possess a valid private pilot certificate or higher pilot certificate such as a commercial pilot certificate;

(2) If enrolled in a course other than an Airline Transport Pilot (ATP) course, hold a second-class medical certificate on the first day of training and, if that course began before October 1, 1998, hold that certificate continuously during training; and

(3) If enrolled in an ATP certification course, hold a first-class medical certificate on the first day of training and, if that course began before October 1, 1998, hold that certificate continuously during training.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3034(d), 3241(b))

(b) *Approval of program.* VA may approve the individual's program of education as described on the individual's application if:

(1) The flight courses that constitute the program of education meet Federal Aviation Administration standards for such courses and the Federal Aviation Administration and the State approving agency approve them; and

(2) The flight training included in the program—

(i) Is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation; or

(ii) Is given by an educational institution of higher learning for credit toward a standard college degree that the individual is pursuing.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a), 3202(2)(A), 3241(a), 3241(b), 3452(b), 3680A(a)(3))

(c) *Pursuit of flight courses.* (1) VA will pay educational assistance to an eligible individual for an enrollment in a commercial pilot certification course leading to Federal Aviation Administration certification for a particular category even if the individual has a commercial pilot certificate issued by the Federal Aviation Administration for a different category, since each category represents a different vocational objective.

(2) VA will pay educational assistance to an eligible individual for an enrollment in an instrument rating course only if the individual simultaneously enrolls in a course required for a commercial pilot certificate for the category for which the instrument rating course is pursued or if, at the time of enrollment in the instrument rating course, the individual has a commercial pilot certificate issued by the Federal Aviation Administration for such category. The enrollment in an instrument rating course alone does not establish that the individual is pursuing a vocational objective, as required for VA purposes, since that rating equally may be applied to an individual's private pilot certificate, only evidencing an intent to pursue a non-vocational objective.

(3) VA will pay educational assistance to an eligible individual for an enrollment in a flight course other than an instrument rating course or a ground instructor course, including

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courses leading to an aircraft type rating, only if the individual has a commercial pilot certificate issued by the Federal Aviation Administration for the category to which the particular course applies.

(4) VA will pay educational assistance to an eligible individual for an enrollment in a ground instructor certificate course, even though the individual does not have any other flight certificate issued by the Federal Aviation Administration, since the Federal Aviation Administration does not require a flight certificate as a prerequisite to ground instructor certification and ground instructor is a recognized vocational objective.

(5) VA will not pay an eligible individual for simultaneous enrollment in more than one flight course, except as provided in paragraph (c)(2) of this section.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a), 3202(2)(A), 3241(a), 3241(b), 3452(b), 3680A(a)(3))

(d) *Some individuals are already qualified for a flight course objective.* (1) The provisions of §§21.5230(a)(4), 21.7110(b)(4), and 21.7610(b)(4), prohibiting payment of educational assistance for enrollment in a course for whose objective the individual is already qualified, apply to enrollments in flight courses.

(2) A former military pilot with the equivalent of a commercial pilot certificate and an instrument rating may obtain a commercial pilot certificate and instrument rating from the Federal Aviation Administration without a flight exam within 12 months of release from active duty. Therefore, VA will consider such a veteran to be already qualified for the objectives of a commercial pilot certification course and an instrument rating course if begun within 12 months of the individual's release from active duty.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3241(b), 3471(4))

(e) *Some flight courses are refresher training.* The provisions of §§21.5230(c), 21.7020(b)(26), 21.7122(b), 21.7520(b)(20), and 21.7610(b)(4) that provide limitations on payment for refresher training that is needed to update an individual's

knowledge and skill in order to cope with technological advances while he or she was on active duty service apply to flight training.

(1) An individual who held a Federal Aviation Administration certificate before or during active duty service may have surrendered that certificate or the Federal Aviation Administration may have canceled it. The individual may receive the equivalent of the number of months of educational assistance necessary to complete the course that will qualify him or her for the same grade certificate.

(2) A reservist is not eligible for refresher training unless he or she has had prior active duty.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a)(3), 3202(2)(A), 3241(a), 3241(b))

(f) *Flight training at an institution of higher learning.* (1) An individual who is eligible for educational assistance under 10 U.S.C. chapter 1606 or 38 U.S.C. chapter 30, 32, or 35 is exempt from the provisions of paragraphs (a)(2) through (d) of this section when his or her courses include flight training that is part of a program of education that leads to a standard college degree.

(2) An individual described in paragraph (f)(1) of this section may pursue courses that may result in the individual eventually receiving recreational pilot certification or private pilot certification, provided that the courses also lead to a standard college degree.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a)(3), 3202(2)(A), 3241(a), 3241(b))

[63 FR 34129, June 23, 1998, as amended at 65 FR 12118, Mar. 8, 2000]

### §21.4236 Tutorial assistance.

(a) *Enrollment.* A veteran or eligible person may receive supplemental monetary assistance to provide tutorial services if he or she:

(1) Is pursuing a post-secondary educational program on a half-time or more basis at an educational institution, and